

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SAN FRANCISCO DISTRICT OFFICE**

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JENNA WILLS, :
 : EEOC No.: 550-2022-01421
 Complainant, :
 :
 v. :
 : **CHARGE OF DISCRIMINATION**
 AFRESH TECHNOLOGIES INC. and :
 MATTHEW SCHWARTZ, in his individual :
 and professional capacities :
 :
 Respondents. :
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Complainant Jenna Wills (“Complainant”), hereby alleges the following against Afresh Technologies Inc. (“Afresh” or the “Company”) and Matthew Schwartz, in his individual and professional capacities, (together, “Respondents”) in support of her Charge of Discrimination and Retaliation:

PRELIMINARY STATEMENT

1. For decades, people of color, and particularly women of color, have had to overcome deeply ingrained stereotypes that posit that they are somehow less qualified, or less able, than their white counterparts.

2. One of the most damaging and pernicious of these stereotypes is that of the so-called “angry Black woman,” which claims that Black women cannot control their emotions, and instead automatically lash out with unjustified anger and hostility any time they are challenged on any issue. As a result, the stereotype posits, it is impossible to have a logical conversation with a Black woman because they will inevitably respond aggressively and irrationally. In other words, they will not respond with anger only when provoked. They *are* angry, *all the time* and merely waiting for the opportunity to express that anger at some hapless victim.

3. To combat this stereotype, Black women have had to moderate their behavior more than anyone else, careful to avoid so much as raising their voice lest they be seen as the prototypical “angry Black woman.”

4. As a Black woman herself, and one who has spent a career working in Human Resources departments at some of the most significant companies in the country, Complainant Jenna Wills has seen firsthand the damage that the “angry Black woman” stereotype has posed to Black women in the workplace. She herself has been careful to always present the opposite picture—that of a friendly, bubbly and reasonable woman, who never loses her temper and is always ruled by reason over emotion.

5. Even when the almost universally white leadership team at Afresh treated Ms. Wills with disdain from virtually the moment she was hired, refusing to so much as give her an opportunity to cultivate relationships or even do her job, Ms. Wills refused to let her understandable frustration show. When that same white leadership rejected her unquestionably beneficial ideas to improve employee morale, solely because those ideas were being proposed by a Black woman, Ms. Wills did not get upset. She instead implored a white colleague to propose the same idea, knowing that Afresh would be more open to proposals by its white employees than from one of its only Black ones. Even when one of Company’s co-Founders publicly humiliated her by falsely accusing her of not being able to do her job in front of management, Ms. Wills maintained her composure and did not defend herself.

6. However, the reason that the “angry Black woman” stereotype has persisted so long and remains so destructive is not that it is warranted or based on any facts, but because it has become ingrained in the biases, both implicit and explicit, that white people share.

7. Thus, Ms. Wills's perpetually sunny disposition did nothing to insulate her from the same discriminatory treatment that other Black women have experienced for countless years, in Ms. Wills's case at the hands of the almost universally white management at Afresh. Despite the fact that Ms. Wills had never lost her temper or otherwise behaved inappropriately, she was told that the Company's white management was "scared" to speak with her, an obvious reference to their discriminatory belief that she was an "angry Black woman." Ms. Wills was also told that she did not seem as if she cared about her job, clearly intimating that Ms. Wills conformed to another stereotype, that of the lazy, unmotivated Black employee.

8. Ms. Wills was not the only employee to be subjected to Afresh's discriminatory animus. Another employee involved in hiring complained about the fact that nearly every Black male candidate for employment was rejected, even from low-level jobs with the reason invariably being that such Black candidates apparently lacked the necessary communication skills. As a result, this employee told Ms. Wills (and Ms. Wills told management), "**I'm tired of the feedback on Black male candidates being communication skills.**"

9. After having been falsely accused of being "scary" and dispassionate, solely because of her race, Ms. Wills knew that she had a responsibility, both to herself and to other employees of color, to ensure that Afresh's white management recognized their biases and addressed them before they derailed other careers. She therefore proposed the Company undergo unconscious bias training as her own experience made evident that such biases permeated Afresh from the top of its leadership. She also advocated for the Company to hire more people of color given that, aside from Ms. Wills herself, there were not Black and/or Hispanic employees in senior management or in the Company's 73 technical positions.

10. Rather than attempt to address their animus towards people of color, Afresh's management doubled down on its unlawful behavior by terminating Ms. Wills, solely because she would not sit idly as the Company discriminated against other Black employees and potential employees.

FACTS

I. BACKGROUND

11. Ms. Wills graduated from Tufts University and received her M.S. from New York University ("NYU") in Human Resources ("HR") Management and Development.

12. Prior to joining Afresh, Ms. Wills had substantial experience in human resources and people functions.

13. After graduating from NYU, Ms. Wills went to work for Time, Inc., one of the largest companies in the world at the time, as an HR Generalist.

14. As a result of her outstanding performance, Ms. Wills was repeatedly promoted, rising to the level of a Human Resources Manager at the time she left Time, Inc.

15. Thereafter, Ms. Wills joined Credit Karma, a personal finance company that uses technology to provide free and useful services to its customers, such as financial education, credit score and credit report monitoring.

16. Once again, Ms. Wills was successful from the beginning of her employment and awarded with multiple promotions as a result, culminating with the position of Senior Manager, HR Business Partner.

17. At Credit Karma, Ms. Wills was responsible for, *inter alia*, managing a team of HR employees, coaching employees, overseeing employee relations, assisting managers with performance management and executive coaching.

18. She was particularly focused on unlocking the potential of employees whose passions laid in the intersection of technology and public service, and who would therefore further Credit Karma's services to its customer base.

19. As a result of Ms. Wills's unimpeachable experience, when Afresh was looking for an employee to run their People department, Ms. Wills was a natural fit for the Company's needs.

20. This was especially true because, like Credit Karma, Afresh's stated purpose was to use technology to modernize an industry that had long been devoid of technological advancement—namely, grocery stores.

21. Ms. Wills's experience at Credit Karma, in cultivating passionate and savvy people who understood how technology could be used to revolutionize customer-facing experiences was precisely what Afresh needed as it looked to aggressively expand its operations.

22. In fact, Ms. Wills had been happy at Credit Karma and was not looking to leave at all. Instead, it was Afresh, and particularly Johannes Olejnik, the Company's former Head of People, who persistently recruited Ms. Wills to join Afresh.

23. Before Ms. Wills agreed to leave Credit Karma, where she was widely considered a rising star, she sought assurances from Afresh that it was committed to issues of diversity and listening to different perspectives as it sought to expand its business operations.

24. It was only after she was repeatedly told during the interview process, including by Matthew Schwartz, the Company's CEO, that Afresh prioritized voices from different backgrounds and cultures, that Ms. Wills agreed to join the Company.

25. Shortly after being hired, Ms. Wills took steps to recruit a more diverse set of employees as she began to fill her own team.

26. In her short time with the Company, Ms. Wills hired four people of color to join her team, including two of her direct reports, Briana Harrison, a Black woman, and Andrew Lopez, a non-binary Puerto Rican, both to be Senior Managers/HR Business Partners.

27. As the Head of People, Ms. Wills was responsible for overseeing the Company's recruitment efforts, including developing headcount strategy, implementing talent development initiatives to maximize employee performance, and ensuring that the culture of Afresh was one in which employees felt that they were appreciated and put in a position to succeed.

28. Ms. Wills was also a member of the Company's Leadership Team, which made decisions about the strategic and business-related future of Afresh.

29. As a direct result of Ms. Wills's hard work, and that of her team, Afresh was recently named one of the Best Small Companies to Work For in the Bay Area by builtin.com, among being honored with several similar awards, the first time the Company has received such distinctions.

30. Similarly, Ms. Wills's hard work was recognized by employees both inside and outside of the Company. On one such occasion, the founder of an outside consulting firm singled Ms. Wills out for praise as a result of her efforts in helping Afresh pass an SOC-2 compliance audit, congratulating her on her work and saying, "you all couldn't hear me literally applauding your answers . . . what an amazing job."

31. Ms. Wills had no doubt that she could help Afresh grow and create a culture that made it an inspiration in the technology industry.

II. THE COMPANY'S DISCRIMINATORY TREATMENT OF MS. WILLS

32. Unfortunately, the longer that Ms. Wills was employed with Afresh, the more apparent it became that there were fundamental problems with the Company's treatment of people of color, and Ms. Wills in particular.

33. By way of example only, when Ms. Wills was hired, there were only two people of color on the Company's Leadership Team, Edmund Wong and Michelle Arguelles.

34. However, shortly after Ms. Wills joined the Company, Mr. Wong was layered and replaced on the Leadership Team by a white man, Jeff Kolesky.

35. Given that the Leadership Team at Afresh made virtually all of the decisions on the Company's operations, business strategy and growth initiatives, the fact that one of the only other people of color on the team was sidelined soon after Ms. Wills was hired immediately raised a troubling red flag.

36. Ms. Wills also learned that the only Black full-time Engineer that the Company had ever hired, Benjamin Harris, had left the Company shortly before she began her employment, because of issues with one of Afresh's co-Founders, Volodymyr Kuleshov, who was often dismissive and demeaning towards Mr. Harris.

37. It seemed to Ms. Wills that, contrary to what she had been explicitly told during the interview process, Afresh seemed to dismiss the needs of employees of color while prioritizing the success of white employees.

38. However, at this point, Ms. Wills had no reason to distrust the Company's intentions and believed that her hiring itself demonstrated that Afresh shared her commitment to diversifying its workforce and ensuring that people of color were given a legitimate opportunity to succeed.

39. It was not long before Ms. Wills learned that the Company's supposed commitment to diversity was nothing more than lip service and that, far from being interested in helping her foster an environment where all employees were given an equal chance to flourish, Afresh's leadership was hell-bent on making it impossible for her to perform her job.

40. As an example, upon being hired, Ms. Wills made it a priority to set up weekly meetings with each of the members of the Leadership Team. Ms. Wills told them that these weekly meetings would allow her to maintain a steady conversation with each of the members of the Leadership Team, which in turn, would allow her to understand their staffing needs in real time so that the People Team could identify talent who could step in right away and propel the Company forward.

41. This had been a practice in which Ms. Wills had engaged throughout her career and it had proved to be an invaluable resource to her prior employers.

42. An open line of communication between HR and business units allowed for a constant dialogue and ensured that the Company's personnel needs were met with the most qualified candidates.

43. In other words, Ms. Wills was offering her time and resources for the benefit of the Leadership Team and, in turn, Afresh.

44. To Ms. Wills's surprise, her desire to meet with members of the Leadership Team at Afresh was met with indifference and even hostility.

45. The Leadership Team seemed almost put out by Ms. Wills's desire to meet with them, notwithstanding the fact that the meetings were designed to benefit them and their teams.

46. Despite her repeated efforts to schedule these meetings, the Leadership Team's members alternatively ignored her or found some excuse to cancel the meetings, often mere

minutes before they were scheduled to start, showing a profound disrespect for an ostensible leader at the Company.

47. Even when Ms. Wills was able to schedule a meeting with one of the Leadership Team's members, they made it clear that they were uninterested in what help she could provide.

48. By way of example only, in or around July 2021, shortly after Ms. Wills began her employment, she arranged a meeting with Todd Schnuck, the Vice President of Operations.

49. From the start, Mr. Schnuck was openly hostile towards Ms. Wills, telling her that he had no idea why the Company had hired her or what she would be doing with Afresh.

50. He proceeded to speak to Ms. Wills in a mocking tone and spoke down to her in a clear sign that he did not believe that she deserved to be in the same room as him, notwithstanding the fact that he admittedly did not understand her role or the depth of her qualifications.

51. There is obviously no legitimate reason for an executive at Afresh to tell an employee he was meeting for the first time that he could not believe that she had been hired, or to tell the most senior employee in the People department that he was not even aware of her job responsibilities. Clearly, Mr. Schnuck was communicating his racist belief that a Black woman such as Ms. Wills had no place at Afresh.

52. Ms. Wills was understandably left shaken and upset after her meeting with Mr. Schnuck.

53. She promptly went to Mr. Schwartz to raise a concern about the unacceptable way in which she had been treated by a fellow member of the Leadership Team.

54. Incredibly, Mr. Schwartz informed her that he was “not surprised” by Mr. Schnuck’s behavior towards Ms. Wills because he had a history of poor performance and he suspected that Mr. Schnuck would take it out on Ms. Wills in response.

55. Ms. Wills was shocked that Mr. Schwartz, who had positioned himself as an ally, would allow her to walk into a meeting with an employee that he knew would likely be hostile without providing her any warning so that she could properly prepare herself, effectively setting her up to fail.

56. The Company continued to treat Ms. Wills less favorably than her white colleagues, criticizing her for ideas that garnered praise when they were offered by white employees.

57. By way of example, in speaking with employees after onboarding, Ms. Wills learned that several members of Afresh’s staff were feeling burnt out, overworked and underappreciated.

58. In response, Ms. Wills proposed that the Company institute Summer Fridays, whereby employees would be allowed to take Friday afternoons off during the summer, assuming that they had no pending assignments.

59. The Leadership Team responded to Ms. Wills’s suggestion with hostility, inexplicably claiming that Ms. Wills’s suggestion of giving employees time off during the work week was untenable and showed a lack of understanding about Afresh’s business.

60. Far from being the novel or outrageous idea warranting such fervent opposition from the Leadership Team, the concept of Summer Fridays has recently become common across a variety of industries in corporate America, at companies both larger and smaller than Afresh, a

fact that Ms. Wills also explained to the Company. Again, however, the Leadership Team was not interested in hearing from Ms. Wills and rejected her idea out of hand.

61. Subsequently, in the fall of 2021, more employees came to Ms. Wills and complained about burn out and being unhappy at Afresh.

62. She therefore raised the idea of Fall Fridays, whereby the Company would pick five Fridays in the fall to allow employees to take off if they did not have work to do.

63. Again, the Company's Leadership Team summarily rejected the idea, with Ms. Wills's proposal gaining virtually no support.

64. Having been exposed to racism, both subtle and overt, throughout her career, Ms. Wills knew when she was being subject to racism and Afresh's behavior checked all of the boxes.

65. There was no legitimate reason for Afresh to reject an idea that was both common throughout the technology industry and addressed an issue that the Company claimed to prioritize—employee morale and mental health. Ms. Wills was concerned that the Leadership Team was rejecting the messenger (a Black woman) rather than her ideas themselves, which were plainly beneficial to the Company.

66. To determine whether her concerns had any merit, in or around November 2021, Ms. Wills approached Mr. Olejnik privately and asked him whether he would propose that Afresh give its employees time off around the holidays.

67. Ms. Wills fears were confirmed when the Leadership Team responded to Mr. Olejnik's proposal with near unanimous support. The entire Leadership Team rallied behind Mr. Olejnik's idea and voted in favor of it.

68. The only substantive difference between the two ideas was that Ms. Wills's proposal was made by a Black woman whereas Mr. Olejnik's nominal idea was made by a White man. That the former garnered no support while the latter was unanimously approved spoke volumes about the discriminatory animus that permeated the Leadership Team.

69. As if to resolve all doubt, the Leadership Team's subsequent actions underscored its animus towards the Company's only Black employee in a leadership position.

70. Specifically, when Ms. Wills announced to the staff that the Leadership Team had decided to grant employees time off during the holidays, the employees were thrilled.

71. However, at the subsequent Leadership Team meeting, Nathan Fenner, a co-Founder and the President of Afresh, proceeded to publicly humiliate Ms. Wills in front of the other team members, telling her that "her" idea to provide employees with time off was "divisive" and reiterated the opinion espoused by him and others that this idea somehow demonstrated that Ms. Wills did not understand the business.

72. It was only when one of the other employees present pointed out that the time off was not Ms. Wills's idea, and that she had even abstained from voting on it, that Mr. Fenner stopped embarrassing her in front of her colleagues.

73. Once Mr. Fenner stopped berating her, Ms. Wills stood up during the meeting and told everyone present that she felt disrespected by his tone and unfair criticisms.

74. Mr. Fenner's treatment was so hostile that several Leadership Team members approached her after the meeting and told her his behavior was unacceptable. Tellingly, however, none of them had expressed this nominal support for Ms. Wills during the meeting itself, instead allowing one of their colleagues to be yelled at and humiliated in front of the entire Leadership Team.

75. In fact, Mr. Schwartz attempted to defend Mr. Fenner's behavior towards Ms. Wills during the meeting, incredibly claiming that Mr. Fenner should not be criticized for the discriminatory manner in which he treated Ms. Wills.

76. Ms. Wills's concern about her future with the Company increased in early December 2021, when Mr. Schwartz met with her to tell her that he was concerned about "friction" between Ms. Wills and the Leadership Team.

77. Ms. Wills was understandably taken aback at this claim, particularly because the Leadership Team's members had repeatedly rejected her outreach efforts and made no effort to develop a relationship with her at all.

78. In fact, the only "friction" that Ms. Wills had experienced up to that point was her demeaning interaction with Mr. Schnuck and Mr. Fenner's decision to falsely blame Ms. Wills for a proposal made by a colleague.

79. Far from being examples of Ms. Wills's supposed deficient performance, these were examples of Afresh's discriminatory animus.

80. Mr. Schwartz responded to Ms. Wills's confusion by stating that the Leadership Team was "**scared**" to speak directly with Ms. Wills, an obviously loaded term referring to the pernicious stereotype of the "angry Black woman."

81. Moreover, Mr. Schwartz himself said that he was also "scared" to give Ms. Wills any feedback, indicating that even her direct supervisor also subscribed to the same racist trope.

82. This was the first time that anyone at the Company had indicated that they took any issue with Ms. Wills's performance.

83. Indeed, Ms. Wills's success throughout her career stemmed from her empathetic disposition, approachable personality and her willingness to work with others toward mutually beneficial solutions.

84. In contrast, the nearly all white Leadership Team at Afresh believed that she was too intimidating to speak to, despite having rejected her repeated attempts to establish relationships with each of them.

85. Ms. Wills was particularly upset at Mr. Schwartz's comments given that Mr. Schwartz had positioned himself as her strongest advocate within the Company and was her direct supervisor.

86. At no point had Ms. Wills so much as raised her voice with Mr. Schwartz (or anyone else on the Leadership Team, for that matter). There was simply no legitimate reason for him or any Company employee to be too scared to even engage in a conversation with Ms. Wills.

87. Accordingly, Ms. Wills asked why Mr. Schwartz and others at the Company found her to be so intimidating and what she could do to address those concerns.

88. It is telling that Mr. Schwartz had no answer to Ms. Wills's questions and, instead, merely told her that she needed to "go away" and "think about her relationships" with the Leadership Team members and what she could do to "improve them."

89. By criticizing Ms. Wills in this way, without providing her with any actionable advice on how she could address Mr. Schwartz's criticisms (or those of others on the Leadership Team), Ms. Wills was being set up to fail.

90. This impression was reinforced shortly thereafter when she was tasked with coming up with a decision tree to govern Afresh's COVID-related policies concerning the Company's return to office, in-person events and business travel.

91. As she researched the assignment, she realized that no organization had such a document in place because everyone's understanding of COVID and its associated safety risks were constantly evolving and based on many different factors.

92. It was not a simple matter of stating that it was safe to return to in-person work when some objective goal such as the hospitalization or mortality rates reached a certain level. Many other factors went into a company's decisions-making, and they all required careful consideration.

93. Governments and the leading scientists across the world were struggling with these kinds of decisions. It was simply unreasonable to expect Ms. Wills to solve a problem that some of the smartest scientists and health care professionals who worked with infectious diseases were also attempting to figure out.

94. In fact, when Ms. Wills reached out to some of her contacts in Human Resources departments at other companies to see if they had any insight into how she should approach designing such a decision tree, they told her that what Afresh was asking her to do was impossible. In fact, experienced employees at other organizations expressed surprise at what she had been assigned, telling her that it seemed as if Afresh was setting her up to fail by giving her an assignment no one could reasonably be expected to complete.

95. Ms. Wills, therefore, came back to the Leadership Team and told them it was not realistic to come up with a decision tree for something as rapidly evolving as COVID.

96. Instead, she suggested that she and the members of the People team engage in conversations with Afresh's various business units to come up with a holistic response based on their individual needs, rather than attempt to come up with a "one size fits all" rubric that could not work with COVID.

97. Incredibly, the business units again rejected Ms. Wills's suggestions out of hand (despite the fact that this was how most companies had decided to face the challenges associated with COVID), instead chastising her for not coming up with a decision tree.

III. MS. WILLS ADVOCATES FOR UNCONSCIOUS BIAS TRAINING AND IS SUBSEQUENTLY TERMINATED

98. In response to Mr. Schwartz's suggestion that Ms. Wills "go away" and come up with her own ideas about how to improve her relationships with the members of the Leadership Team, Ms. Wills approached Mr. Schwartz in early January and told him that she wanted to go on a "listening tour" to meet with some of the members of the Leadership Team and ask them what they needed from her and the People team, what she could be doing better and what she had not done well in the past.

99. By doing so, Ms. Wills hoped to demonstrate that she was open to criticism and willing to engage in a dialogue about the Leadership Team's needs.

100. She was also hoping to gain further insight into why people were supposedly "scared" to speak with her.

101. None of the individuals with whom she spoke in January 2022 had any feedback about how Ms. Wills could perform better in the future.

102. To the contrary, Dain Charette, the Senior Vice President of Sales, apologized to Ms. Wills, telling her that the fact that she felt she needed to go on a listening tour in order to get feedback showed that the Leadership Team was not speaking with her directly enough and that he was really happy with her work.

103. Mr. Fenner told Ms. Wills that she had been right to push for time off for the employees the previous year because he had also heard from several employees that they felt burnt out.

104. He also told Ms. Wills that he had been raving to Mr. Schwartz about all of the value she was providing to the Company.

105. Another employee, Megan Yang, the Director of Product, told Ms. Wills that she felt as if the Products Team needed more support in filling its open positions.

106. Ms. Wills subsequently did research and discovered that the individual who was responsible for assisting the Products Team had not been doing his job.

107. Ms. Wills redistributed his work to another employee and Ms. Yang told Ms. Wills she appreciated that she was allowed to feel “heard” by Ms. Wills’s prompt action.

108. Importantly, no one told Ms. Wills that they did not feel as if they could speak with her or were otherwise “scared” of her.

109. Also in January, Ms. Wills proposed that the Company conduct unconscious bias training for its employees during Black History Month.

110. In the proposal to Mr. Schwartz and Lyndall Schreiner, the Chief of Staff, Ms. Wills shared a deck demonstrating the benefits that raising self-awareness, consciousness and empathy could bring for the Company.

111. However, Ms. Wills’s initial proposal was completely ignored by the Company.

112. Undeterred, Ms. Wills again raised the idea of hiring someone to conduct unconscious bias training, explaining that she had a contact who had conducted such trainings in the past and was universally regarded as excellent.

113. This time Mr. Schwartz responded, only to tell Ms. Wills that Mr. Schwartz was too busy to even give the idea any thought and told her to circle back in a “couple of weeks.”

114. Given the lack of enthusiasm around Ms. Wills's idea (which was in line with how the Company treated all her ideas), she knew that she needed to take extra steps to ensure that Afresh's employees received unconscious bias training.

115. Subsequently, during a Zoom meeting a couple of weeks later that Ms. Wills arranged with Mr. Schwartz and Ms. Schreiner, they both made it apparent that they thought that the unconscious bias training that Ms. Wills had proposed was a waste of time.

116. Mr. Schwartz asked what the goal of the training was and pushed back on her strategy of presenting the training live, with a qualified trainer with whom she had experience, instead asking whether Afresh could just show a video.

117. Moreover, neither Mr. Schwartz nor Ms. Schreiner had reviewed the deck that Ms. Wills sent weeks prior to the meeting, admitting as much to Ms. Wills and visibly quickly leafing through it as Ms. Wills attempted to make the business case for the training.

118. Based on Mr. Schwartz's attitude it appeared as if Mr. Schwartz and Ms. Schreiner viewed the unconscious bias training as merely a *pro forma* requirement that needed to be disposed of as quickly as possible so that the Company could focus on other things.

119. However, in light of Ms. Wills's own experiences at the Company, including the disparate treatment that she experienced and the revelation that the other members of the Leadership Team considered her to be a scary, angry Black woman, she knew that such unconscious bias training was critical to Afresh's future success and needed to be a priority for the Company.

120. She therefore explained to Mr. Schwartz that in-person, live trainings were much more effective than merely showing a video.

121. She also told Mr. Schwartz about a recent article published in the Harvard Business Review about the “angry Black woman” stereotype, and how employees needed to be cognizant of the risks of buying into such a trope before they derailed otherwise successful careers.¹

122. Ms. Wills had seen firsthand at Afresh how unthinking adherence to that very stereotype could cause incalculable damage and was committed to making sure that others did not similarly fall victim to beliefs that had no basis in reality.

123. Ms. Wills’s belief that the Company required unconscious bias training was reinforced in that time period when Ms. Schreiner told Ms. Wills that the Company was considering hiring a white man to fill the newly-created VP of Sales role.

124. However, Ms. Schreiner acknowledged that the Company had not considered any people of color in the interview process and asked how to address that issue.

125. Afresh had a “two in the pool” strategy whereby it would bring in at least two candidates from underrepresented groups for interviews before making any hiring decisions and asked whether it made sense to proceed with the strategy with respect to the VP of Sales position.

126. Ms. Wills objected to the racist idea that pretending to consider people of color when the Company knew it would hire a white person would do anything to address diversity issues.

127. As she explained:

Sharing this snippet with you both as I think about our leadership hiring, most recently the VP, Sales role Lyndall and I spoke about last week. When we interview an underrepresented identity, we do it because we think they are a real contender - we don't do it after we've already made the hiring decision in our minds/hearts. I know this coach personally.

¹ <https://hbr.org/2022/01/the-angry-black-woman-stereotype-at-work>

128. Ms. Wills likened Afresh's "two in the pool" idea to the National Football League's Rooney Rule, which was in the news in February precisely because NFL teams had a long history of concealing their racist hiring practices by bringing in candidates of color for interviews to meet a quota when they had no intention of actually employing such individuals.

129. This type of conversation with leadership at the Company was precisely why Ms. Wills believed unconscious bias training was so critical.

130. Even people who believe that they are trying to do the right thing do not realize that they are unintentionally crippling underrepresented minority groups by denying them a legitimate opportunity to succeed in the workplace because they are focused on checking a box to pay lip service to diversity.

131. This is particularly true where the Leadership Team itself lacks the diverse mix of voices that could guard against the prevalence of such biases.

132. Ms. Wills further explained to Mr. Schwartz and Ms. Schreiner that the Company must prepare for the "hard conversations" it needed to have, both internally and externally, about its lack of internal diversity.

133. In early March, one of Ms. Wills's direct reports, Jonathan Singer, the Head of Talent, informed her that he had noticed the Company's business leaders were repeatedly rejecting qualified Black candidates for roles within the Company, telling her **"I'm tired of the feedback on Black male candidates being communication skills."**

134. Ms. Wills told Mr. Schwartz about Mr. Singer's comment and explained that she objected to such sentiments within the Company.

135. As a result, she explained that "my hope is our unconscious bias training helps us reflect on any biases in hiring."

136. Subsequently in early March, Ms. Wills sent Mr. Schwartz another article about the treatment of Black employees, particularly Black women, in the workplace.

137. In discussing the article with Mr. Schwartz, she linked it to her experiences at Afresh, challenging the Company's perception of being "scared" to give her feedback:

Each time I speak, I'm overly conscious of how my words will make people feel (I do think that's a human responsibility not just mine, though). I'm conscious of how people feel when I tell the truth. I'm conscious of how people feel when I'm truly direct. I'm guilty of over-thinking so that I can try to manage how people feel about me. I'm especially conscious of when I tell people what to do. There is no real history of Black women being in positions of power, being listened to at work, telling people what to do without friction, and having their direction-setting being deferred to as the accurate authority. My development area has many layers, historical ones, but I'm willing to bring more direct and decisive communication.

138. Indeed, Ms. Wills herself decided to take on a more active role in addressing the Company's almost complete lack of diversity.

139. During a recent all-hands meeting, Ms. Wills presented data showing that the Company had 73 employees in technical positions.

140. **None identified as Black or Hispanic.**

141. Similarly, all of the Company's C-Suite employees were white.

142. As Ms. Wills explained, these numbers were unacceptable, and she was committed to bringing additional people of color into the fold.

143. Unsurprisingly, Ms. Wills is not the only employee of color who was subjected to discrimination at Afresh.

144. The only person of color on Afresh's Leadership Team apart from Ms. Wills, Ms. Arguelles, was leaving Afresh after having been denied a promotion to the VP of Marketing that she felt she deserved.

145. Instead, the Company began interviewing outside candidates and is close to hiring a white candidate for the role.

146. Ms. Wills had been led to believe that Ms. Arguelles was not given the promotion because she had never been a Vice President before, and Mr. Schwartz and the Company did not believe that she could perform in the role.

147. However, earlier this month, Mr. Schwartz informed Ms. Wills that he intended to promote a white employee to a C-suite role despite the fact that this employee had never held a position with commensurate job duties. However, Mr. Schwartz said he was willing to give this white employee the chance to “prove” that he was up to the task.

148. Once again, the Company was treating its white employees better than people of color.

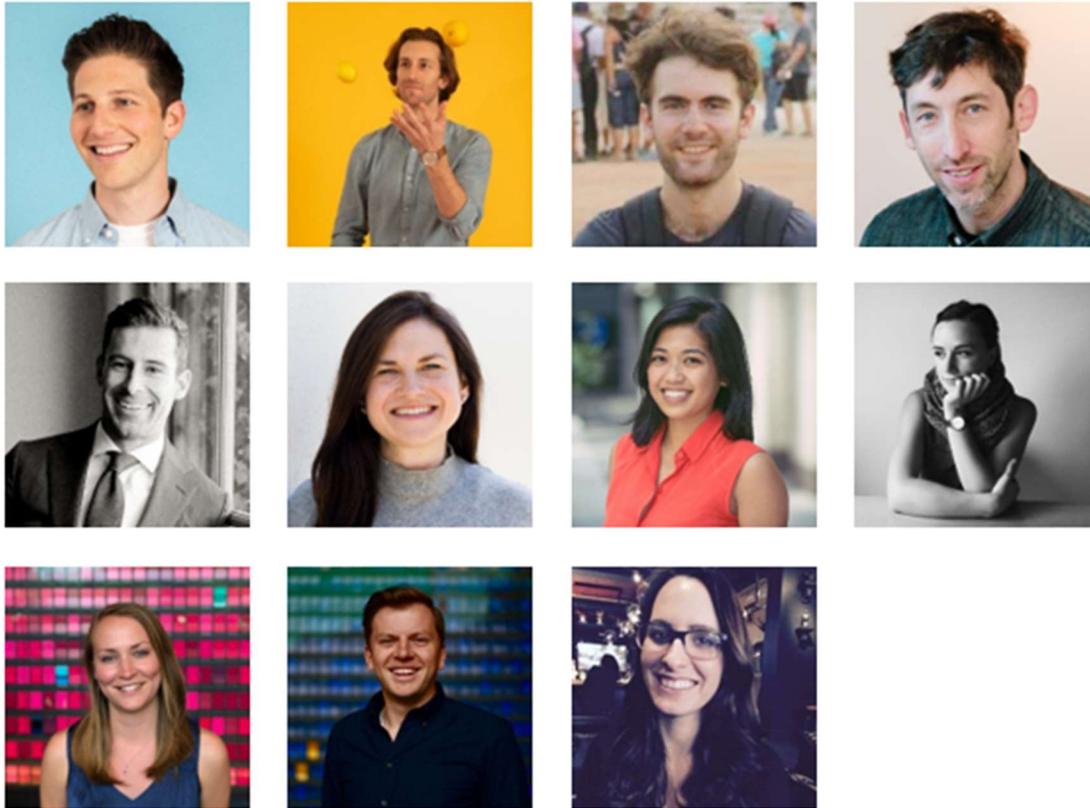
149. The white employee was given the chance to prove himself on the job in a more prestigious role, while Ms. Arguelles, a Filipina woman, was not being given the same opportunity to show that she could handle a Vice President position.

150. Instead, the Company was allowing her to leave the Company entirely rather than reward a deserving employee.

151. At this point, the Company had become tired of Ms. Wills’s repeated attempts to change the discriminatory environment at Afresh.

152. Accordingly, on March 16, 2022, Mr. Schwartz called her into a meeting and informed her that the Company was terminating her because of the “friction” that she had with leaders within the Company.

153. As a result of the unlawful termination of Ms. Wills's employment, the Leadership Team at the Company is almost entirely white²:



154. Incredibly, Ms. Wills was being terminated despite the fact that no one at the Company, including Mr. Schwartz, as her direct supervisor, ever made even the slightest attempt to help her address any purported deficiencies in her performance.

155. Moreover, white employees were given significantly more time to improve their performance than was Ms. Wills.

² (From Left to Right) Matt Schwartz, CEO, Co-Founder; Nathan Fenner, President, Co-Founder; Volodymyr Kuleshov, Co-Founder & Chief Technologist; Jeff Kolesky, CTO; Dain Charette, SVP of Sales and Customer Success; Lyndall Schreiner, Chief of Staff; Michelle Arguelles, Director of Marketing; Keisha Armand, Director of Customer Support; Katrina Klein,

156. By way of example only, Mr. Schnuck had a long history performance deficiencies over several months.

157. Mr. Schnuck was given several opportunities to address these deficiencies and ultimately left the Company on good terms.

158. Similarly, another white man continues to remain employed by the Company despite a record of underperformance stretching back more than a year.

159. Moreover, a white woman, also remains employed despite the fact that Mr. Schwartz and others have repeatedly acknowledged her ongoing performance issues.

160. Mr. Schwartz also claimed that it did not seem as if Ms. Wills cared about her job or about improving her performance.

161. This is unquestionably false. Despite the fact that Mr. Schwartz pointedly denied her any real feedback as to how she could address the Leadership Team's racist beliefs, Ms. Wills took it upon herself to meet with its members and attempt to assuage their concerns.

162. She also proposed unconscious bias training specifically to address such discriminatory mindsets and worked long hours to help the Company grow.

163. Ms. Wills's passion in the face of invidious discrimination was beyond question.

164. Indeed, Mr. Schwartz's attack is yet another example of his decision to ascribe to discriminatory tropes about Black people, namely that they are "lazy" and do not care about their work.

165. It is obvious to us that Ms. Wills was terminated specifically because of her continued insistence that Afresh address its discriminatory practices.

Director of Implementation; Johannes Olejnik, Director of Business Operations; and Megan Yang, Director of Product.

166. Her repeated objections and demands that the Company take legitimate steps to address the disparate treatment that people of color experience no doubt reinforced the commonly held perception that she was a supposedly “angry Black woman” who could not fit within the Company’s culture.

PRAYER FOR RELIEF

Based on the foregoing, Complainant respectfully requests that the EEOC take all available steps to hold Respondents accountable for their violations of 42 U.S. Code §2000e, *et seq.*, Title VII of the Civil Rights Act of 1964.

Dated: April 13, 2022
New York, New York

Respectfully submitted,

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